

REMARKS

With this response, Claims 1-29 are pending in the present application. Applicant has amended claims 1-4, 14, 16-19, 26, and 28-29.

Claims 2-4 and 17-19 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 14, 26 and 28-29 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-8, 12-19 and 22-26 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,861,195 to Bhave et al. Claims 9-11, 20-21 and 27-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,616,765 to Castro et al.

As set out in more detail below, the Applicant submits that the pending claims, as amended, are patentably distinct from the cited art and, consequently, requests allowance of each of the pending claims in light of the foregoing amendments and following remarks.

The Claims, as Amended, Overcome the 35 U.S.C. §112 Rejection

The Examiner noticed the use of trademarks in the specification and noted that the trademarks should be capitalized. Applicant has amended ¶¶ 0043 and 0046 of the Application to correct typographical errors relating to the use of trademarks.

Claims 2-4 and 17-19 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant has amended claims 2-4 and 17-19 to obviate this rejection. Support for the amended language can be found at least in ¶¶ 0026, 0027 and 0037 of the application. Applicant therefore respectfully requests withdrawal of this rejection.

Claims 14, 26 and 28-29 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 14, 26 and 28-29 to clarify the claim language. Applicant therefore respectfully requests withdrawal of this rejection.

The Claims, as Amended, are Patentably Distinct Over Bhave

Claims 1-8, 12-19 and 22-26 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,861,195 to Bhave et al. The claims were rejected in part because Bhave “teaches slide coating of multiple layers of polymer and solvent onto photographic film, which would be inclusive of X-ray film, a medical device.” See Office Action, p. 4, ¶6. Applicant respectfully submits that X-ray film would not be considered a “medical device” as that term is used in the claims; nevertheless, Applicant respectfully submits that independent claims 1 and 16, as amended, and each of their dependent claims are patentably distinct over the Bhave reference because Bhave does not disclose or suggest the limitation of “providing an implantable medical device” to be coated. Bhave generally regards coating a substrate such as a paper-based product to create photographic film products. These photographic film products are not implantable medical devices “used, at least in part, to penetrate the body of a patient.” See Application, ¶ 0041. Accordingly, Applicant submits that claims 1-8, 12-19 and 22-26 are patentable over the Bhave reference.

The Claims, as Amended, are Patentably Distinct Over Castro

Claims 9-11, 20-21 and 27-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,616,765 to Castro et al. The device in Castro generally

regards a syringe-type dispenser assembly that includes a reservoir to hold the coating material, a nozzle, and an “orifice through which [coating material] composition is delivered” onto the medical device. *See* ’765 patent, col. 7:37-51. As seen in Figs. 6A – 6C, 7A – 7B, the orifice in Castro is positioned over, or in contact with, the medical device and the coating material is expelled from the orifice directly onto the medical device. *See* ’765 patent, col. 14:56-67.

Applicant respectfully submits that claims 9-11, 20-21 and 27-28 are patentably distinct over Castro because Castro does not suggest or disclose at least the limitation of “dispelling the coating material through the outlet orifice onto the slide surface” of the coating head, as claimed in independent claim 1 (from which rejected claims 9-11 depend) and similarly claimed in independent claims 16 and 27 (from which rejected claims 20-21 and 28 depend). Rather, the device in Castro discloses the delivery of coating material from the orifice directly onto the medical device without first allowing the coating material to gravitationally flow down a slide surface.

Expelling the coating material from an orifice to a slide surface before deposition onto a medical device permits, among other things, the coating of high viscosity coating solutions as well as low viscosity solutions. *See* Application, ¶ 0017. Because the device in Castro expels the coating from the orifice directly onto the medical device, the coating should be sufficiently blended or include “fine, suspended particles” to avoid clogging the orifice. *See* ’765 patent, col. 12:29-44. Thus, Castro acknowledges that highly viscous coating solutions may be problematic when expelling coating directly from an orifice, and does not suggest the use of a slide surface for highly viscous coating solutions. Accordingly, Applicant respectfully submits that claims 9-11, 20-21 and 27-28 are patentable over the Castro reference.

Claim 29 also stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,616,765 to Castro et al. Applicant respectfully submits that independent claim 29, as amended, is patentably distinct over the Castro reference because Castro does not disclose or suggest the limitation of “applying a vacuum between the surface of the medical device and the coating head below the sheet of coating material.” The vacuum system generates a low pressure region to enhance stability and control thickness of the layer of coating material while the coating sheet is dispelled from the orifice to the medical device. *See* Application, ¶¶ 0026, 0038. While Castro discloses a vacuum system to assist heating a coated stent to dry or cure the coating onto the stent, *see* '765 patent, col. 17:2-3, it does not disclose a vacuum system to assist the application of the coating layer during the coating process. Thus, the applicant respectfully submits that claim 29, as amended, is also patentable over the Castro reference.

CONCLUSION

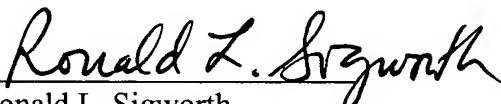
In view of the preceding remarks, the Applicant respectfully asserts that each of the pending claims are in condition for allowance and, therefore, requests reconsideration and allowance of all pending claims.

The Commissioner is hereby authorized to charge Kenyon & Kenyon Deposit Account No. 11-0600 for any applicable fee.

Should the Examiner require any additional information regarding this Response, the Examiner is invited to contact the undersigned at (202) 220-4200.

Respectfully submitted,

Date: December 13, 2005


Ronald L. Sigworth
Reg. No. 53,592

KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
(202) 220 - 4200 (telephone)
(202) 220 - 4201 (facsimile)
RLS/bep